

Decision 03-01-011 January 16, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Verification, Consolidation, and Approval of
Costs and Revenues in the Transition Revenue
Account.

Application 98-07-003
(Post PX Direct Access Credits)
(Petition Filed August 19, 2002)

**OPINION DENYING PETITION FOR
MODIFICATION OF DECISION 02-07-032**

The Newark Group, Inc. (The Newark Group) petitions for modification of Decision (D.) 02-07-032, on the grounds that the decision is erroneous in that it applies the surcharge imposed on direct access customers to uniquely-positioned customers such as The Newark Group who did not contribute to Southern California Edison Company's (Edison) historical undercollection and who were forced onto direct access by Edison's failure to live up to its own contractual obligations. Edison opposes.

The Petition for Modification is denied. Even if all the allegations of the petition were true they are irrelevant. We will not create exceptions to a tariff for specific customers or groups on the ground that they were not customers when a particular cost was incurred. Such exemptions are inappropriate. For example, any direct access customer who started operation in Edison's service territory in the summer of 2001 could make a similar claim for exemption. This is the same claim that a new customer could make with respect to the recovery of fuel cost undercollections under the Energy Cost Adjustment Clause (ECAC) of the past

years. Once the Commission adopts a billing factor, it becomes applicable to all customers, even those who were not taking service from the utility when the undercollections were actually incurred. To carve out special exemptions for special interests, will promote requests by various “uniquely situated” customers who want to evade their obligations to pay the tariff.

Carl Wood is the Assigned Commissioner and Robert Barnett is the assigned Administrative Law Judge (ALJ) in this proceeding.

The proposed decision of the ALJ was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed by Edison, the Newark Group, and the Alliance for Retail Energy Markets (AReM). Edison supports the proposed decision as written.

AReM agrees with the Proposed Decision’s general statement that all customers taking service under a tariff are responsible for all tariff charges, regardless of when the cost was incurred or when the customer began taking service. However, AReM claims that this principle may be “overly broad” and points out that the Commission has exempted some customers from certain charges even though they may have contributed to the costs. As an example it cites the California Alternate Rates for Energy (CARE) rate, where CARE customers are exempt from the CARE surcharge and all other customers, including non-CARE residential and commercial customers, who did not contribute towards those costs are required to pay for the CARE surcharge. In fact, this example supports the proposed decision. The important issue is not that certain tariff groups are exempt or that other tariff groups are required to pay for costs they did not cause, but that where the Commission has determined that it is reasonable for certain tariff groups to pay certain charges (regardless of

cost causation), all customers within that tariff group are required to pay for those charges.

The Newark Group comments merely reiterated its argument in its petition for modification.

Finding of Fact

1. A cost whenever incurred which is included by the Commission in a tariff charge is applicable to all customers taking service under that tariff regardless of when the customer began service.

Conclusion of Law

1. The petition should be denied.

O R D E R

IT IS ORDERED that:

1. The petition for modification is denied.
2. This order is effective today.

Dated January 16, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners